

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

368

By: Senate Judiciary Committee

For An Act To Be Entitled

"AN ACT TO PROVIDE A CAUSE OF ACTION AGAINST A HMO WHICH DENIES ITS INSURED FREEDOM OF CHOICE OF MEDICAL PROVIDER WHEN THAT INSURED IS INJURED BY MALPRACTICE COMMITTED BY THE MEDICAL PROVIDER APPROVED BY THE HMO.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The following definitions apply to this act:

(1) "Person" is an individual, his heirs, next of kin, devisees, spouse and children.

(2) "HMO" is a privately owned Health Maintenance Organization which provides medical services, pursuant to A.C.A. 23 Chapter 76, except any HMO owned, sponsored, approved or administered by a religious or charitable institution.

(3) "Medical provider" is any person or organization authorized to provide medical services in the state of Arkansas.

SECTION 2. Any person, insured by a HMO, for medical services, who is denied freedom of choice of his preferred medical provider by the HMO, or a medical group insurance plan administered by the HMO, who is injured as a result of malpractice committed by the medical provider approved by the HMO, shall have a direct cause of action against the HMO for personal injury, for any and all damages recoverable in a malpractice action against a medical provider, resulting from such malpractice. In addition, the attorney representing the claimant shall be entitled to attorney's fees equal to one-half of the amount of damages awarded the claimant.

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

Revision Commission shall incorporate the same in the Code.